

MONTANA LEGISLATIVE HISTORY

Chapter 288 1997

Bill H 384 S _____ Original bill & history / c

H. Committee on Taxation

Hearing Date(s) Jan 31 ☒ C

Feb 04 ☒ C

_____ C

_____ C

Date Out _____ C

S. Committee on Taxation

Hearing Date(s) Mar 06 ☒ C

Mar 12 ☒ C

_____ C

_____ C

Did this bill originate in an interim committee? ☐ Yes ☐ No

Committee _____

Report _____

1997 LEGISLATIVE HISTORY

The 1997 Montana Legislature has dramatically changed the nature of the legislative minutes. Specifically, the minutes from House committees are extremely sparse in content, offering no substantive information from which to glean legislative intent. The Senate committees' minutes are somewhat fuller in content. Exhibits available from the State Law Library (which may include written statements, attendant information, roll call votes, roll call attendance, a list of public members present, specific action taken on legislative bills, etc.) are included with this request. For information on other exhibits, contact the Montana Historical Society Archives at 444-4774. Exhibits may also be purchased on a CD-ROM from the Montana Legislative Council (444-3064).

Just as in the 1995 legislative session, the House and Senate hearings were recorded. The Historical Society is the depository for the tapes. For information on accessing the tapes, call the archives at 444-4774.

If you have concerns over the format of the 1997 legislative minutes, it is suggested that you contact your state legislators.

2/05	COMMITTEE REPORT—BILL PASSED		
2/06	2ND READING PASSED	92	8
2/07	3RD READING PASSED	94	6
	TRANSMITTED TO SENATE		
2/08	FIRST READING		
2/08	REFERRED TO BUSINESS & INDUSTRY		
3/12	HEARING		
3/13	COMMITTEE REPORT—BILL CONCURRED		
3/15	2ND READING CONCURRED	47	0
3/17	3RD READING CONCURRED	49	0
	RETURNED TO HOUSE		
3/21	SIGNED BY SPEAKER		
3/21	SIGNED BY PRESIDENT		
3/21	TRANSMITTED TO GOVERNOR		
3/25	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 140		
	EFFECTIVE DATE: 10/01/97		

HB 383 INTRODUCED BY KNOX

LC1212 DRAFTER: EVERTS

REVISE THE CIVIL PENALTY PROVISIONS OF THE METAL MINE
RECLAMATION ACT AND THE OPENCUT MINING ACT

1/28	INTRODUCED		
1/28	FIRST READING		
1/28	REFERRED TO NATURAL RESOURCES		
1/28	FISCAL NOTE REQUESTED		
2/03	HEARING		
2/03	FISCAL NOTE RECEIVED		
2/04	FISCAL NOTE PRINTED		
2/11	COMMITTEE REPORT—BILL PASSED		
2/14	2ND READING PASSED AS AMENDED	95	3
2/18	3RD READING PASSED	96	4
	TRANSMITTED TO SENATE		
2/19	FIRST READING		
2/19	REFERRED TO NATURAL RESOURCES		
3/12	HEARING		
3/25	COMMITTEE REPORT—BILL CONCURRED		
4/04	2ND READING CONCURRED	49	0
4/05	3RD READING CONCURRED	49	1
	RETURNED TO HOUSE		
4/08	SIGNED BY SPEAKER		
4/10	SIGNED BY PRESIDENT		
4/10	TRANSMITTED TO GOVERNOR		
4/16	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 271		
	EFFECTIVE DATE: 04/16/97		

HB 384 INTRODUCED BY ELLIS, ET AL.

LC0132 DRAFTER: HEIMAN

EXCLUDE FROM INHERITANCE TAXES ANY INTEREST IN AND THE REAL
PROPERTY AND TANGIBLE PERSONAL PROPERTY OF CLOSELY HELD
BUSINESSES THAT ARE TRANSFERRED TO THE LINEAL DESCENDANTS
OF THE DECEDENT'S GRANDPARENTS

1/28	INTRODUCED
1/28	FIRST READING
1/28	REFERRED TO TAXATION
1/28	FISCAL NOTE REQUESTED
1/30	FISCAL NOTE RECEIVED
1/30	FISCAL NOTE PRINTED

1/31	HEARING		
2/04	COMMITTEE REPORT—BILL PASSED		
2/15	2ND READING PASSED	77	21
2/18	3RD READING PASSED	83	17
	TRANSMITTED TO SENATE		
2/19	FIRST READING		
2/19	REFERRED TO TAXATION		
3/06	HEARING		
3/12	COMMITTEE REPORT—BILL CONCURRED		
3/18	2ND READING CONCURRED	41	8
3/19	3RD READING CONCURRED	43	7
	RETURNED TO HOUSE		
3/24	SIGNED BY SPEAKER		
3/25	SIGNED BY PRESIDENT		
3/25	TRANSMITTED TO GOVERNOR		
3/31	RETURNED TO HOUSE WITH GOVERNOR'S PROPOSED AMENDMENTS		
4/08	2ND READING GOVERNOR'S AMENDMENTS NOT CONCURRED	81	18
	SENATE		
4/10	MOTION TO CONCUR WITH GOVERNOR'S AMENDMENTS ON 2ND READING FAILED	18	32
4/10	2ND READING GOVERNOR'S AMENDMENTS NOT CONCURRED	32	18
4/11	TRANSMITTED TO GOVERNOR FOR RECONSIDERATION		
4/18	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 288		
	EFFECTIVE DATE: 04/18/97		

HB 385 INTRODUCED BY MCCULLOCH, ET AL. LC1064 DRAFTER: KURTZ

CLARIFY WHEN A DRIVER BEING OVERTAKEN BY A VEHICLE ON THE LEFT SHALL GIVE WAY TO THE RIGHT

1/28	INTRODUCED		
1/28	FIRST READING		
1/28	REFERRED TO TRANSPORTATION		
2/07	HEARING		
2/12	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/14	2ND READING PASSED	96	3
2/15	3RD READING PASSED	93	5
	TRANSMITTED TO SENATE		
2/17	FIRST READING		
2/17	REFERRED TO HIGHWAYS & TRANSPORTATION		
3/06	HEARING		
3/07	COMMITTEE REPORT—BILL CONCURRED		
3/12	2ND READING CONCURRED	50	0
3/13	3RD READING CONCURRED	49	1
	RETURNED TO HOUSE		
3/15	SIGNED BY SPEAKER		
3/15	SIGNED BY PRESIDENT		
3/17	TRANSMITTED TO GOVERNOR		
3/20	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 119		
	EFFECTIVE DATE: 10/01/97		

House BILL NO. 384
 INTRODUCED BY *Ellis, Felard, Kitzberger, Robinson, Stark, Stoddard, Wagner*
Brainard, Bergman, Jmo, Jaylor, Stoddard, Stoddard

A BILL FOR AN ACT ENTITLED: "AN ACT EXCLUDING FROM INHERITANCE TAXES ANY INTEREST IN AND THE REAL PROPERTY AND TANGIBLE PERSONAL PROPERTY OF CLOSELY HELD BUSINESSES THAT ARE TRANSFERRED TO THE LINEAL DESCENDANTS OF THE DECEDENT'S GRANDPARENTS; AMENDING SECTIONS 72-16-101, 72-16-453, AND 72-16-455, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."
Thomas AKLESTAD
 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Exemption for closely held business property. (1) The value of any interest in a closely held business represented by real property and tangible personal property and all real property and tangible personal property of a closely held business, as defined in 72-16-453, that is transferred to the lineal descendants of the decedent's grandparents is exempt from the tax imposed under parts 1 through 8.

(2) Property owned by a closely held business is considered as being owned proportionately by or for its shareholders, partners, or owners.

(3) For the purposes of this section, "tangible personal property" means property, other than intangible property as defined in 72-16-101, that is owned by a closely held business. The term does not include an ownership interest in the closely held business.

Section 2. Section 72-16-101, MCA, is amended to read:

"72-16-101. Definitions. In parts 1 through 8, the following definitions apply:

(1) ~~The words "county~~ County treasurer", "public administrator", and "county attorney" ~~shall be taken to mean the treasurer, public administrator, and county attorney of the county in which the district court has jurisdiction of the proceedings.~~

(2) ~~The word "decedent" shall include~~ "Decedent" includes the testator, intestate, grantor, bargainor, vendor, or donor.

(3) ~~The words "estate"~~ "Estate" and "property" ~~shall be taken to mean the real and personal~~

property or interest ~~therein in the property~~ passing or transferred to individual legatees, devisees, heirs, next of kin, grantees, donees, or vendees and not as the property or interest ~~therein in the property~~ of the decedent, grantor, donor, or vendor and ~~shall include~~ include all personal property within or ~~without~~ outside of the state.

(4) "Intangible" or "intangible property", when used without other qualifications, ~~shall be taken to include~~ includes but is not limited to all ~~moneys~~ money, stocks, bonds, notes, securities, leaseholds, contracts, and credits of all kinds, secured or unsecured.

(5) ~~The terms "joint" "Joint" and "jointly"~~ refer to ownership of property by two or more persons having as one of the incidents of ~~such the~~ ownership the right of survivorship in the surviving owner or owners upon the death of one of the owners. This definition does not affect the concept of property owned as tenants in common, and this type of ownership ~~shall continue~~ continues to be recognized ~~where~~ when applicable.

(6) ~~The word "transfer" shall be taken to include~~ "Transfer" includes the passing of property or any interest ~~therein in the property~~, in possession or enjoyment, present or future, by inheritance, descent, devise, succession, bequest, grant, deed, bargain, sale, gift, or appointment in the manner ~~herein~~ prescribed in parts 1 through 8 to each individual or corporation."

Section 3. Section 72-16-453, MCA, is amended to read:

"72-16-453. Closely held business defined -- qualification. (1) For the purposes of [section 1] and 72-16-452, the ~~term~~ following definitions apply:

(a) "Closely held business" means:

(i) a trade or business carried on as a sole proprietorship;

(ii) a partnership carrying on a trade or business if the partnership had 15 or fewer partners; or

(iii) a corporation carrying on a trade or business if the corporation had 15 or fewer shareholders.

(b) ~~"interest"~~ "Interest" in a closely held business" means:

~~(a)(i)~~ (i) an interest as a sole proprietor in a trade or business carried on as a proprietorship;

~~(a)(ii)~~ (ii) an interest as a partner in a partnership carrying on a trade or business if:

~~(A)~~ (A) 20% or more of the total capital interest in the partnership is would be taxable under Title 72, chapter 16, part 3, except for [section 1], as a transfer from the decedent; or

~~(B)~~ (B) the partnership had 15 or fewer partners;

~~(e)(iii)~~ stock in a corporation carrying on a trade or business if:

~~##(A)~~ 20% or more in value of the voting stock of the corporation ~~is~~ would be taxable under Title 72, chapter 16, part 3, ~~except [section 1]~~, as a transfer from the decedent; or

~~##(B)~~ the corporation had 15 or fewer shareholders.

(2) Determination for qualification under subsection (1)~~(b)~~ must be made as of the time immediately before the decedent's death.

(3) Stock or a partnership interest held by a husband and wife as joint tenants or tenants in common is treated as owned by one shareholder or one partner, as the case may be.

(4) Property owned directly or indirectly by or for a corporation, partnership, estate, or trust is considered as being owned proportionately by or for its shareholders, partners, or beneficiaries. For the purposes of this subsection, a person is a beneficiary of a trust only if ~~he~~ the person has a present interest in the trust.

(5) All stock and all partnership interests held by the decedent or by any member of ~~his~~ the ~~decedent's~~ family within the meaning of section 267(c)(4) of the Internal Revenue Code is treated as being owned by the decedent."

Section 4. Section 72-16-455, MCA, is amended to read:

"72-16-455. Partnership interests and stock not readily tradable. (1) If the personal representative elects the benefits of this section, at ~~such~~ the time and in ~~such~~ the manner as the department may prescribe:

(a) for the purposes of 72-16-453~~(1)(b)(ii)~~ (1)(b)(ii)(A) or ~~(1)(e)(ii)~~ (1)(b)(iii)(A), whichever is appropriate, and for the purposes of 72-16-456, any capital interest in a partnership and any nonreadily tradable stock, which after the application of 72-16-453(2) through (5) is treated as owned by the decedent, ~~shall~~ must be treated as taxable under Title 72, chapter 16, part 3, in determining the value of a transfer from the decedent;

(b) the personal representative ~~shall~~ must be treated as having selected under 72-16-452(3) the date prescribed by 72-16-441 for the payment of the tax without interest; and

(c) section 72-16-461 does not apply.

(2) For the purposes of this section, "nonreadily tradable stock" means stock for which at the time of the decedent's death there was no market on the stock exchange or in an over-the-counter market."

1 **NEW SECTION.** **Section 5. Codification instruction.** [Section 1] is intended to be codified as an
2 integral part of Title 72, chapter 16, part 3, and the provisions of Title 72, chapter 16, part 3, apply to
3 [section 1].

4

5 **NEW SECTION.** **Section 6. Effective date -- retroactive applicability.** [This act] is effective on
6 passage and approval and applies retroactively, within the meaning of 1-2-109, to estates of persons who
7 die after December 31, 1996.

8

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0384, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act excluding from inheritance taxes any interest in and the real property and tangible personal property of closely held businesses that are transferred to the lineal descendants of the decedent's grandparents; and providing an immediate effective date and retroactive applicability date.

ASSUMPTIONS:

1. This proposal is effective upon passage and approval and applies retroactively to estates of persons who die after December 31, 1996. The first full-year impact on revenue will be in FY98.
2. Lineal descendants of the decedent's grandparents would be exempt from the inheritance tax.
3. Only tangible personal and real property would qualify for the exemption. Intangible personal property - cash, stocks, bond, notes, etc., would continue to be taxable in full.
4. A stratified random sample of 100 inheritance tax returns filed between January 1, 1996 and November 30, 1996 was examined to determine the amount of closely held property subject to inheritance tax. Based on Department of Revenue analysis of the sample, it is estimated that inheritance taxes would be reduced by approximately \$1.1 million per year under this proposal.

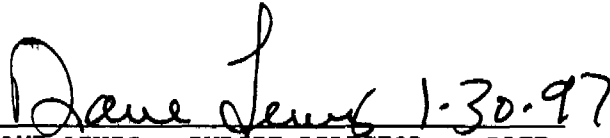
FISCAL IMPACT:

FY 98

FY 99

Revenues:

Inheritance Tax	(\$1,100,000)	(\$1,100,000)
(General Fund)		


DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning


ALVIN ELLIS JR., PRIMARY SPONSOR DATE

Fiscal Note for HB0384, as introduced

HB 384

Questions From Committee Members and Responses:

{Tape: 2; Side: A; Approx. Time Count: 16.9; Comments: Questions continues on Tape 2B.}

Closing by Sponsor:

Rep. Raney closed. {Tape: 2; Side: B; Approx. Time Count: 15.5.}

HEARING ON HB 348

Opening Statement by Sponsor:

Rep. Dan Harrington, House District 38 opened the hearing on HB 348, a bill to revise the property value information required to be submitted annually to the Secretary of State. {Tape: 2; Side: B; Approx. Time Count: 30.0.}

Proponents' Testimony:

Angela Fultz, Chief Deputy, Secretary of State's Office. {Tape: 2; Side: B; Approx. Time Count: 32.0.}

Opponents' Testimony:

None.

Informational Testimony:

None.

Questions From Committee Members and Responses:

{Tape: 2; Side: B; Approx. Time Count: 33.8.}

Closing by Sponsor:

Rep. Harrington closed the hearing. {Tape: 2; Side: B; Approx. Time Count: 37.1.}

HEARING ON HB 384

Opening Statement by Sponsor:

Rep. Alvin Ellis, House District 23, opened the hearing. HB 384 would exempt a family business, farm or ranch from inheritance taxes. {Tape: 2; Side: B; Approx. Time Count: 38.0.}

Proponents' Testimony:

Lorna Frank-Karn, Montana Farm Bureau. {Tape: 3; Side: A; Approx. Time Count: 1.3.}

Riley Johnson, National Federation of Independent Business.

{Tape: 3; Side: A; Approx. Time Count: 1.8.}

Quinn Holzer, Montana Stock and Wool Growers. {Tape: 3; Side: A; Approx. Time Count: 2.7.}

Montana Graingrowers. {Tape: 3; Side: A; Approx. Time Count: 3.2.}

Opponents' Testimony:

None.

Informational Testimony:

None.

Questions From Committee Members and Responses:

{Tape: 3; Side: A; Approx. Time Count: 3.9.}

Closing by Sponsor:

Rep. Ellis closed. {Tape: 3; Side: A; Approx. Time Count: 26.4.}

EXECUTIVE ACTION ON HB 348

Motion/Vote:

Rep. Rose moved that HB 348 do pass. On a voice vote, the motion passed 19 - 0. {Tape: 3; Side: A; Approx. Time Count: 27.0.}

EXECUTIVE ACTION ON HB 308

Motion:

A motion was made that the amendments to HB 308 be adopted.

EXHIBIT 11. The motion passed 19 - 0. {Tape: 3; Side: A; Approx. Time Count: 30.8.}

Further action on the bill was postponed.

EXHIBIT 12. Additional information which was presented to be added to the record on HB 295 by the Travel Montana Division at the close of the meeting.

{Tape: 3; Side: A; Approx. Time Count: 34.6; Comments: Adjourn.}

HOUSE TAXATION COMMITTEE

ROLL CALL

DATE OF MEETING: January 31, 1997

Name	Present	Absent	Excused
Rep. Peggy Arnott	✓		
Rep. Paul Bankhead	✓		
Rep. John Bohlinger	✓		
Rep. Bill Carey	✓		
Rep. Alvin Ellis, Jr.	✓		
Rep. Marian Hanson	✓		
Rep. Hal Harper	✓		
Rep. Dan Harrington	✓		
Rep. Rick Jore	✓		
Rep. Scott J. Orr	✓		
Rep. Bob Raney	✓		
Rep. Bob Ream	✓		
Rep. Sam Rose	✓		
Rep. Bill Ryan	✓		
Rep. Robert Story	✓		
Rep. Richard Simpkins	✓		
Rep. Emily Swanson	✓		
Rep. Lila Taylor	✓		
Rep. Jack Wells	✓		
Chairman Chase Hibbard	✓		

VISITOR REGISTER

HOUSE TAXATION COMMITTEE

DATE:

January 31, 1995

BILL NO:

HB 384

SPONSOR:

Rep. Ellis

NAME AND ADDRESS (PLEASE PRINT)	REPRESENTING	TYPE OF WITNESS		
		Informa- tional	Support	Oppose
<i>Lorna Frank-KARN</i>	<i>MT. FARM Bureau</i>		☒	
<i>Jeff Essmoun</i>	<i>self</i>			
<i>Gary modern</i>	<i>DOR</i>	☒		
<i>Dave Woodgerch</i>	<i>DOR</i>	☒		
<i>Quinn Holzer</i>	<i>Montana Stockgrowers/Woolgrowers</i>		☒	
<i>Riley Johnson</i>	<i>NFIB</i>		☒	

Please leave prepared testimony with secretary.

Witness statement forms are available if you care to submit written testimony.

EXECUTIVE ACTION ON SB 130

Motion:

Rep. Rose moved that SB 130 be concurred in. Rep. Ream moved that the suggested amendments be adopted. No action was taken and final executive action will occur when further information is received by the Committee. *{Tape: 1; Side: B; Approx. Time Count: 29.8.}*

EXECUTIVE ACTION ON HB 384

Motion:

Rep. Ellis moved that HB 384 do pass. *{Tape: 1; Side: B; Approx. Time Count: 33.4; Comments: Discussion of the motion is continued on Tape 2 A.}*

Vote:

On a voice vote, the motion passed 18 - 2. Reps. Harrington and Ream voting no. *{Tape: 2; Side: A; Approx. Time Count: 3.3.}*

Rep. Swanson distributed information on a comparison of taxes levied and average mill levies. EXHIBIT 3. *{Tape: 2; Side: A; Approx. Time Count: 18.2.}*

EXECUTIVE ACTION ON HB 311

Rep. Orr discussed HB 311; however, further action was postponed because of the lack of an accurate fiscal note. *{Tape: 2; Side: A; Approx. Time Count: 11.6.}*

{Tape: 2; Side: A; Approx. Time Count: 22.5; Comments: Adjourn.}



HOUSE STANDING COMMITTEE REPORT

February 4, 1997

Page 1 of 1

Mr. Speaker: We, the committee on Taxation report that **House Bill 384** (first reading copy -- white) do pass.

Signed: _____

A handwritten signature in cursive script, appearing to read "Chase Hibbard", is written over a horizontal line.

Chase Hibbard, Chair

Committee Vote:
Yes 18, No 2.

2/4
mp

261112SC.Hgd

HOUSE TAXATION COMMITTEE

ROLL CALL

DATE OF MEETING: *February 4, 1997*

Name	Present	Absent	Excused
Rep. Peggy Arnott	✓		
Rep. Paul Bankhead	✓		
Rep. John Bohlinger	✓		
Rep. Bill Carey	✓		
Rep. Alvin Ellis, Jr.	✓		
Rep. Marian Hanson	✓		
Rep. Hal Harper	✓		
Rep. Dan Harrington	✓		
Rep. Rick Jore	✓		
Rep. Scott J. Orr	✓		
Rep. Bob Raney	✓		
Rep. Bob Ream	✓		
Rep. Sam Rose	✓		
Rep. Bill Ryan	✓		
Rep. Robert Story	✓		
Rep. Richard Simpkins	✓		
Rep. Emily Swanson	✓		
Rep. Lila Taylor	✓		
Rep. Jack Wells	✓		
Chairman Chase Hibbard	✓		

HOUSE TAXATION COMMITTEE
ROLL CALL VOTE

DATE OF MEETING: 2/4/97

BILL NO. HB 384

MOTION: Ellis do pass

Name	Yes	No	Comment
Rep. Bob Story			
Rep. Scott Orr			
Rep. Bill Ryan			
Rep. Peggy Arnott			
Rep. Bill Carey			
Rep. Sam Rose			
Rep. Jack Wells			
Rep. Dan Harrington			
Rep. Alvin Ellis	Voice ✓ 18-2		
Rep. Rick Jore			
Rep. Dick Simpkins			
Rep. Paul Bankhead			
Rep. John Bohlinger			
Rep. Emily Swanson			
Rep. Lila Taylor			
Rep. Marian Hanson			
Rep. Hal Harper			
Rep. Bob Raney			
Rep. Bob Ream		✓	
Chairman Chase Hibbard			

MOTION/VOTE: SEN. BARRY STANG MOVED HB 441 BE CONCURRED IN.
MOTION CARRIED UNANIMOUSLY.

SEN. BARRY STANG will carry the bill.

EXECUTIVE ACTION ON HB 311

{Tape: 1; Side: A; Approx. Time Count: 17.9; Comments: None.}

MOTION/VOTE: SEN. MIKE FOSTER MOVED HB 311 BE CONCURRED IN.
MOTION CARRIED UNANIMOUSLY.

SEN. MIKE FOSTER will carry the bill.

DISCUSSION OF HB 308 RELATIVE TO TAXING CIDER IN THE SAME WAY AS BEER DUE TO ITS SIMILAR ALCOHOLIC CONTENT; IT IS NOT A SMALL OR LARGE PRODUCER ISSUE. THE MARKET IS SMALL. THE DISCUSSION WILL BE TAKEN UP LATER WHEN ALL THE INFORMATION IS AVAILABLE.

EXECUTIVE ACTION ON SB 358

{Tape: 1; Side: A; Approx. Time Count: 28.4; Comments: None.}

MOTION/VOTE: SEN. DOROTHY ECK MOVED SB 358 BE TABLED. MOTION CARRIED UNANIMOUSLY.

HEARING ON HB 384

Sponsor: REP. ALVIN ELLIS, JR., HD 23, RED LODGE

Proponents:

John Youngberg, Montana Farm Bureau
Candace Torgerson, Women Involved in Farm Economics (WIFE)
Bob Stephens, Montana Graingrowers' Association
Quinn Holzer, Montana Stockgrowers' Association, Montana
Cattlemen and Woolgrowers' Associations
Riley Johnson, National Federation of Independent Business

Opponents: None

Opening Statement by Sponsor:

REP. ALVIN ELLIS, JR., HD 23, RED LODGE opens by stating this bill doesn't go far enough. It affects closely held family business property and deals with inheritance taxes. Federal estate taxes don't tax the first \$600,000. Montana taxes that property when it doesn't go the next direct lineal descendant.

Proponents' Testimony:

John Youngberg, Montana Farm Bureau states the Farm Bureau has long been a proponent of doing away with both State and Federal inheritance taxes. He notes Montana has the highest rate of estate taxes in the country.

Candace Torgerson, Women Involved in Farm Economics (WIFE) indicates WIFE supports the right of every farm family to improve their financial situation, standard of living or status in life through their own management decisions, determination and dedication. This bill supports that concept.

Bob Stephens, Montana Graingrowers' Association supports HB 384.

Quinn Holzer, Montana Stockgrowers' Association, Montana Cattlewomen and Woolgrowers' Associations all support this legislation.

Riley Johnson, National Federation of Independent Business feels this is a totally unfair tax; this is not necessarily just an agricultural bill; it affects many kinds of businesses.

Opponents' Testimony: None

Questions From Committee Members and Responses:

SEN. FRED VAN VALKENBURG inquires if the proponents' statements are accurate with respect to the level of taxation and its application in the instances that have been described. **Mr. Bruce McGinnis, Department of Revenue** responds that is a difficult question to answer. He provides some clarification regarding lineal descendants and taxation. Non-lineal descendants are taxed in Montana. **SEN. VAN VALKENBURG** comments that his understanding of the inheritance tax is that its historical basis has been to promote a redistribution of wealth and to try to prevent the accumulation of wealth based on a lack of effort on the part of someone who is inheriting something, and to balance that out with some portion of that wealth being collected by the State in the form of taxation. **Mr. McGinnis** agrees with **SEN. VAN VALKENBURG'S** assessment of the history of the tax.

CHAIRMAN GERRY DEVLIN asks if **Mr. McGinnis** would agree that there is a certain amount of unfairness between the person who does not plan his estate properly and those who do. **Mr. McGinnis** agrees. He notes estate planning has become a mind game with estate planners actively seeking loopholes.

SEN. FRED VAN VALKENBURG queries if there is anything about this bill that gives **Mr. McGinnis** any concern regarding it being utilized wrongly to escape taxation entirely. **Mr. McGinnis** refers to page 1, line 14, section 1 which defines closely held businesses.

SEN. MIKE SPRAGUE refers to page 1, line 15 as defining what this bill does. **Mr. McGinnis** responds this brings in a wider scope of people; we are looking at the people who own the property. **SEN. SPRAGUE** indicates Americans believe in personal property ownership. He references the difference between ownership and stewardship. **Mr. McGinnis** responds there has been a change in economics and this bill is a reaction to those changes. It's a policy decision for this Legislature to make.

SEN. MACK COLE inquires when the tax was first enacted. **Mr. McGinnis** says the inheritance tax has been in place in Montana since the early 1900's. **SEN. COLE** asks if we are simplifying the methodology. **Mr. McGinnis** agrees it will make for more flexibility for people who want to plan for the distribution of their wealth.

SEN. DOROTHY ECK asks if the inheritance tax is graduated. **Mr. McGinnis** says yes, the Montana inheritance tax is graduated. **SEN. ECK** if each recipient is taxed. **Mr. McGinnis** responds each would pay the appropriate percentage on the amount they receive. **SEN. ECK** asks what happens with charitable gifts. **Mr. McGinnis** indicates they are not taxed. **SEN. ECK** inquires about conservation easements on land. **Mr. McGinnis** responds that has an impact on the valuation of the property. The tax is computed on the whole market value of the property at the time of the death of the owner. Restrictions on the land have an adverse effect on the value of the property. **SEN. ECK** asks if there are restrictions on who can inherit or who can purchase the property. **Mr. McGinnis** indicates the agreements are looked at closely in terms of valuation and terms of inheritance; some agreements are not binding on the State of Montana.

SEN. WILLIAM GLASER asks regarding a discount for minority interest. **Mr. McGinnis** indicates that is taken into account when figuring the tax.

SEN. MIKE SPRAGUE asks why the fiscal note shows a retroactive date. **REP. ELLIS** responds it's set up that way because these estates are not processed quickly.

CHAIRMAN GERRY DEVLIN inquires regarding exemptions; does it go away from blood relatives. **REP. ELLIS** responds the only people exempted in the bill are direct descendants of the deceased.

Closing by Sponsor:

REP. ELLIS states prior to this millennium all property was in the hands of the State and it couldn't be left to anyone. First England and then Thomas Jefferson and others came a long way from that belief; that's the philosophical question before the Committee today - if you don't leave property to who the State says should get it, should it be taxed. Most properties can't generate the kind of revenue that inheritance taxes demand. He also points out that when this tax was implemented 0-2% of the

people were paying an income tax and payroll taxes were minuscule. Since the tax was implemented wealth is taxed by everyone who earns it, again as a payroll item and again when it's passed on after death. He feels the tax is unjustified.

SEN. MACK COLE will carry the bill.

**MONTANA SENATE
1997 LEGISLATURE
TAXATION COMMITTEE**

ROLL CALL

DATE

3-6-97

[illegible]

SEN:1997

wp.rollcall.man

CS-09

DATE 3/6

SENATE COMMITTEE ON Taxation

BILLS BEING HEARD TODAY: HB 384, HB 441

< ■ > PLEASE PRINT < ■ >

Check One

Name	Representing	Bill No.	Support	Oppose
Mary Whittinghill	DOR	HB 441	X	
R Bruce McGinnis	DOR - Amicus Curator	HB 384		
Les Mahon	MCW - MDA	HB 384	X	
Paul Baul	HD 72	HB 441		
Pat McElroy	STAB	HB 441	X	
Quinn Holzer	MSGA	HB 384	X	
John Youngberg	Mont. Farm Bureau	HB 384	X	
CANDACE TORGERSON	WIFE	HB 384	X	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

{Tape: 1; Side: B; Approx. Time Count: 41.3; Comments: None.}

MOTION: SEN. MACK COLE MOVED HB 384 BE CONCURRED IN.

DISCUSSION:

SEN. FRED VAN VALKENBURG doesn't object to this bill in theory, but is concerned about the fiscal responsibility.

SEN. BARRY STANG will vote against this today. He would like to have tax payment on the gains made when and if the heirs sell the property, not when it's given to them as an inheritance. He really would like to see the tax eliminated all together, at both the State and Federal levels.

SEN. DOROTHY ECK thinks the inheritance tax should be a part of the tax study; she agrees with SEN. STANG it should be eliminated.

{Tape: 2; Side: A; Approx. Time Count: 0; Comments: New tape.}

CHAIRMAN GERRY DEVLIN thinks this a step in the right direction; he will support it.

SEN. BOB DEPRATU agrees with SEN. STANG regarding elimination of the tax, but thinks we should go ahead with this step.

MOTION: SEN. ECK MOVED A CONTINGENCY VOIDNESS CLAUSE BE PUT ON HB 384.

DISCUSSION:

SEN. MIKE FOSTER will resist the motion.

SEN. BARRY STANG doesn't like the Contingency Voidness.

VOTE: MOTION TO PUT CONTINGENCY VOIDNESS CLAUSE ON HB 384 FAILS 1-8 with SEN. ECK voting yes.

VOTE: MOTION THAT HB 384 BE CONCURRED IN CARRIED 6-3 with SEN. ECK, SEN. STANG and SEN. VAN VALKENBURG voting no.

SEN. COLE will carry the bill.



SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 12, 1997

MR. PRESIDENT:

We, your committee on Taxation having had under consideration House Bill 384 (third reading copy -- blue), respectfully report that House Bill 384 be concurred in.

Signed: *Sen. Devlin*
Senator Gerry Devlin, Chair

TS Amd. Coord.
Sec. of Senate

Sen. Cole
Senator Carrying Bill

541032SC.STS

**MONTANA SENATE
1997 LEGISLATURE
TAXATION COMMITTEE**

ROLL CALL

DATE 3-12-97

[illegible]

SEN:1997
wp.rollcall.man
CS-09

DATE 3-12-97 BILL NO. HB 384 NUMBER 1
MOTION: Be Concurred In
6-3

SEN:1997
wp:rlclvote.man
CS-11